

EXHIBIT 4

Deposition	Plaintiffs' Designation	Defendants' Corresponding Counter Designation	Reason that Defendants' Counter Designation Must be Considered According to Fed.R.Civ.P 32(a)(4)
William Buckingham, January 3, 2005	59:24-63:1, 63:9-15	106:21-107:15	Defendants' designation relates to the same subject matter in Plaintiffs' designation with regard to the Buckingham's understanding of intelligent design and his scientific background
	91:6-20, 129:8-130:2	108:1-110:10	Defendants' designation relates to the same subject matter in Plaintiffs' designation with regard to teaching staff involvement in, and opinion of, the board's decision regarding the intelligent design statement
	91:6-20, 129:8-130:2, 134:12-135:6	133:16-134:11	Defendants' designation relates to the same subject matter in Plaintiffs' designation with regard teaching staff involvement in the board's decision regarding the intelligent design statement, and also immediately precedes one of Plaintiffs' designations
	67:24-71:5	135:16-136:21	Defendants' designation deals with the same subject matter in Plaintiffs' designation with regard to Buckingham's stated purpose in supporting the board resolution and to the stated purpose of other board members, with specific reference to balance, in addition to questions related to October 18, 2004 board meeting.

In The Matter Of:

*Tammy Kitzmiller, et al. v.
Dover Area School District, et al.*

*William Buckingham
January 3, 2005*

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[1] evolution teachers and I just deduced from that that.
 [2] quoting several verses from the book of Genesis
 [3] in the Bible, she asked how can we allow
 [4] anything else to be taught in our schools.
 [5] During her time, she repeated gospel verses
 [6] telling people how to become born-again
 [7] Christians and said evolution was in direct
 [8] violation of the teachings of the Bible. Do you
 [9] remember your wife saying those things that are
 [10] attributed to her there?

[11] A: I know she got up and talked. I don't
 [12] remember— I can't tell you exactly what she
 [13] said. I really can't.

[14] Q: Do you remember her quoting from the Bible?

[15] A: No. I'm not saying she didn't. I'm just saying
 [16] I don't remember.

[17] Q: Then a little bit further down three more
 [18] paragraphs it says, during the meeting,
 [19] Buckingham told those in attendance that he had
 [20] been asked to tone down his Christian remarks,
 [21] quotes, but I must be who I am and not
 [22] politically correct, he said, close quotes. Did
 [23] you say that?

[24] A: Not all of it.

[25] Q: What part did you say?

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[1] A: What I said was I must be who I am and I'm not
 [2] politically correct.

[3] Q: You didn't say anything about being asked to
 [4] tone down your Christian remarks?

[5] A: Not to my knowledge. And I think I must be who
 [6] I am and not politically correct was in response
 [7] to something somebody said to me. That was an
 [8] answer. And I don't remember what led to that.

[9] Q: The school district received a number of copies
 [10] of the book Of Pandas and People, correct?

[11] A: Yes.

[12] Q: Do you know how many copies?

[13] A: I've been told there were 60. I haven't seen
 [14] them.

[15] Q: Do you know where that came from, who donated
 [16] them?

[17] A: No, I don't.

[18] Q: You have no idea?

[19] A: I have thoughts, but I don't know.

[20] Q: What are your thoughts?

[21] A: I think it could have a tie to Alan Bonsell who
 [22] was board president at that time.

[23] Q: Why do you think— I know you're not saying it
 [24] was, but why do you think it might have ties to
 [25] Mr. Bonsell?

[1] that time, and I just deduced from that that.
 [2] Q: Have you read Of Pandas and People?

[4] A: I glanced through it.

[5] Q: How much time did you spend glancing through it?

[6] A: A day, maybe two.

[7] Q: Can you tell me what you can remember from the
 [8] book?

[9] A: I looked at that book a long time ago and, no, I
 [10] can't.

[11] Q: When was it that you glanced through it?

[12] A: It was a couple months before we got them.

[13] Q: Where did you get a copy of it?

[14] A: I ordered one.

[15] Q: From where?

[16] A: You know, I don't even know. It was over the
 [17] computer. I think Amazon.com maybe. I know
 [18] there were scientific theories in there, but to
 [19] recall what the theories were, no, I don't.

[20] Q: It discusses intelligent design primarily,
 [21] doesn't it?

[22] A: I guess that would be a fair characterization,
 [23] scientifically discussing intelligent design.

[24] Q: Were you ever at a board meeting where someone
 [25] asked who donated the book to the school, in

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[1] fact, Larry Snook, a former board member, asking
 [2] who donated it?

[3] A: I think he expressed a wonder type thing over
 [4] where they came from. I don't think— I don't
 [5] remember anybody asking directly where they came
 [6] from.

[7] Q: Were you curious to know where it came from?

[8] A: I know they came from someone in the public
 [9] sector. I know we didn't use taxpayer funds to
 [10] pay for it.

[11] Q: Did you ask where it came from?

[12] A: No.

[13] Q: Why didn't you ask?

[14] A: Didn't want to know.

[15] Q: Why didn't you want to know?

[16] A: What purpose would it serve?

[17] Q: Well, because you're a board member and the
 [18] school district is part of your responsibility
 [19] as a board member, and maybe knowing where these
 [20] books came from would be something that you
 [21] should know.

[22] A: No. I think it was a wonderful gesture, and I
 [23] didn't concern myself with where they came from.

[24] Q: What is intelligent design? Can you describe it
 [25] for me?

(1) A: It's a scientific theory relative to the complexities of life.
 (2) complexities of life.
 (3) MR. HARVEY: Can you read that back. I'm
 (4) sorry, I didn't get that.
 (5) (The court reporter read back the previous
 (6) answer.)
 (7) BY MR. HARVEY:
 (8) Q: What does the scientific theory state or hold or
 (9) say?
 (10) A: I'm sorry, I didn't— There's noise out there.
 (11) Q: What does this scientific theory of intelligent
 (12) design according to you what does it stand for?
 (13) A: It could come from a tiny amoeba that generated
 (14) a process whereby complex things evolved.
 (15) MR. HARVEY: I'm sorry, could you read that
 (16) back.
 (17) (The court reporter read back the previous
 (18) answer.)
 (19) BY MR. HARVEY:
 (20) Q: What could come from a tiny amoeba?
 (21) A: I'm not a scientist.
 (22) Q: I'm just trying to understand so we can have a
 (23) working understanding here of what intelligent
 (24) design is if we can. Do you have an
 (25) understanding in very simple terms of what

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(1) intelligent design stands for? What does it
 (2) teach?
 (3) A: Other than what I expressed, that's—
 (4) Scientists, a lot of scientists— Don't ask me
 (5) the names. I can't tell you where it came from.
 (6) A lot of scientists believe that back through
 (7) time, something, molecules, amoeba, whatever,
 (8) evolved into the complexities of life we have
 (9) now.
 (10) Q: That's the theory of intelligent design?
 (11) A: You asked me my understanding of it. I'm not a
 (12) scientist. I can't go into detail and debate
 (13) you on it.
 (14) Q: I don't want you to debate me on it. I don't
 (15) want you to debate anybody on it.
 (16) A: It's a scientific theory.
 (17) Q: How is it different from evolution to your
 (18) understanding?
 (19) A: I don't understand the question.
 (20) Q: Do you understand the theory of intelligent
 (21) design to be different from the theory of
 (22) evolution?
 (23) A: Yes.
 (24) Q: You do?
 (25) A: Yes.

(1) Q: Just to be clear, we're using theory now in the
 (2) same way that you defined it earlier in the
 (3) deposition.
 (4) A: Okay.
 (5) Q: Just refresh my recollection, how did you use
 (6) the term theory?
 (7) A: Can you tell me how I defined it?
 (8) Q: No way she's going to be able to go back.
 (9) A: I don't remember what I said.
 (10) Q: I think you said something about something
 (11) that's not proven.
 (12) MR. GILLEN: Something scientifically
 (13) debatable is what my notes reflect, Stephen.
 (14) A: I'll stand by that.
 (15) BY MR. HARVEY:
 (16) Q: So when we say— I'm using it the way you used
 (17) it. So my question is, how is intelligent
 (18) design different from evolution, if at all?
 (19) A: They're different theories in that some
 (20) scientists believe that— We're going back over
 (21) the same ground, I think. Some scientists
 (22) believe that it could be tiny amoeba again —
 (23) I'll go back there — generated a process where
 (24) the complexities of life occurred, not as random
 (25) I'll say as what the process of evolution would

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(1) dictate.
 (2) Q: I'm still— Maybe I'm confused because I had my
 (3) own idea of what it meant because I just glanced
 (4) at Of Pandas and People. But let me just tell
 (5) you a few things that I was under the impression
 (6) that intelligent design, some ideas that it
 (7) advanced, and you can tell me whether you
 (8) understand me to be correct or not.
 (9) One, I understood that intelligent design
 (10) said that life and living things were created or
 (11) begun by some intelligent designer, some
 (12) intelligent being. Is that your understanding?
 (13) A: No.
 (14) Q: Do you have any understanding like that?
 (15) A: No. Do you suppose we could soon take a break?
 (16) Q: Sure.
 (17) (Recess taken)
 (18) BY MR. HARVEY:
 (19) Q: Mr. Buckingham, does intelligent design teach
 (20) that life like a manufactured object is the
 (21) result of intelligent shaping of matter?
 (22) A: I think one— I think intelligent design
 (23) expresses an order as opposed to the theory of
 (24) evolution which talks about chance.
 (25) Q: It expresses an order you said?

[1] A: An orderly process or order?
 [2] Q: Who or what directed that order?
 [3] A: I don't know.
 [4] Q: But my question was, does intelligent design
 [5] teach that life like a manufactured object is
 [6] the result of intelligent shaping of matter?
 [7] A: I don't know about shaping. I think there's an
 [8] order in intelligent design that's not in
 [9] evolution. Whether or not it's shaping, I don't
 [10] know.
 [11] Q: Does intelligent design teach that life itself
 [12] owes its origin to a master intellect?
 [13] A: A master intellect?
 [14] Q: Yes.
 [15] A: I won't say that, no.
 [16] Q: Is that something you would want presented to
 [17] the students at Dover High School?
 [18] MR. GILLEN: Objection, calls for
 [19] speculation.
 [20] A: A master intellect?
 [21] BY MR. HARVEY:
 [22] Q: Yes. Would you want the students told that life
 [23] itself owes its origin to a master intellect?
 [24] A: No.
 [25] Q: Would you want the students told that

[1] A: I don't believe so.
 [2] Q: Was that something you would want the students
 [3] taught?
 [4] MR. GILLEN: Objection, calls for
 [5] speculation.
 [6] A: That's not up to me. I don't think so, no.
 [7] BY MR. HARVEY:
 [8] Q: But personally you wouldn't want that, right?
 [9] A: No.
 [10] Q: I mean, in other words, I'm correct?
 [11] A: Yes.
 [12] Q: Does intelligent design teach that similarities
 [13] between organisms are explained because there
 [14] was a common designer as opposed to a common
 [15] ancestor?
 [16] A: I don't believe it says that.
 [17] Q: Would you want students taught that similarities
 [18] between organisms are explained as being due to
 [19] a common designer?
 [20] MR. GILLEN: Objection, hypothetical and
 [21] calls for speculation.
 [22] A: So I'm supposed to answer that?
 [23] MR. GILLEN: Yes.
 [24] MR. HARVEY: Yes.
 [25] A: I hate to— Can you say it one more time,

[1] intelligent design locates the origins of new
 [2] organisms in an immaterial cause, in a
 [3] blueprint, a plan, a pattern devised by an
 [4] intelligent agent?
 [5] MR. GILLEN: Objection, calls for
 [6] speculation.
 [7] A: I don't even understand what that means.
 [8] BY MR. HARVEY:
 [9] Q: Do you want me to read—
 [10] A: Is there a way to simplify the question?
 [11] Q: Okay, sure. Would you want the students taught
 [12] that intelligent design teaches that new
 [13] organisms were caused by or created in
 [14] accordance with a plan devised by an intelligent
 [15] agent?
 [16] A: No.
 [17] Q: Does intelligent design teach that various forms
 [18] of life began abruptly through an intelligent
 [19] agency?
 [20] MR. GILLEN: Objection, foundation.
 [21] A: Could you repeat the question.
 [22] BY MR. HARVEY:
 [23] Q: Does intelligent design teach that the various
 [24] forms of life began abruptly through an
 [25] intelligent agency?

[1] please.
 [2] BY MR. HARVEY:
 [3] Q: Sure. Would you want the students taught that
 [4] similarities between organisms are explained as
 [5] being due to a common designer?
 [6] A: No.
 [7] Q: Where did the school district board of directors
 [8] get the idea to include intelligent design in
 [9] the curriculum?
 [10] MR. GILLEN: Objection to the extent the
 [11] question calls him to answer for other board
 [12] members.
 [13] A: I first heard of it from the board president,
 [14] Alan Bonsell.
 [15] BY MR. HARVEY:
 [16] Q: When was that?
 [17] A: When I first came on the board. That would have
 [18] been approximately two years ago.
 [19] Q: What did he say about it then?
 [20] A: I can't give you a quote on what he said. I
 [21] just know it was mentioned.
 [22] Q: When is the next time you heard of it?
 [23] A: I don't know.
 [24] Q: Well, we know that it made its way into the
 [25] board resolution of October 18, correct?

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[1] A: Yes.
 [2] Q: Do you know how it got its way into the board
 [3] resolution? Where did it first come from?
 [4] A: First came— It was mentioned to me by Alan
 [5] Bonsell.
 [6] Q: Then after that, was it ever mentioned again?
 [7] A: I don't know that it was.
 [8] Q: Well, you were on the curriculum committee in
 [9] the summer of 2004?
 [10] A: Yes.
 [11] Q: And the curriculum committee looked at it,
 [12] didn't they?
 [13] A: I won't say the curriculum committee did. I
 [14] did.
 [15] Q: What did you do to look at it?
 [16] A: I researched through— I looked it up on a
 [17] computer.
 [18] Q: Where did you look?
 [19] A: I probably just put intelligent design, and it
 [20] went where it took me. I couldn't tell you
 [21] where that was.
 [22] Q: Do you remember what websites you went to?
 [23] A: No.
 [24] Q: Did you end up talking to anybody in person
 [25] either — I mean live over the phone or in

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[1] person about it?
 [2] A: About intelligent design?
 [3] Q: Yes.
 [4] A: My attorneys.
 [5] Q: When was that?
 [6] A: It's several months ago anyway. I don't know.
 [7] Q: Who were your attorneys?
 [8] A: It was Thomas More Law Center, people there.
 [9] Q: Who at the Thomas More Law Center?
 [10] A: Richard Thompson.
 [11] Q: Anybody else?
 [12] A: I believe he's the only one I talked to there.
 [13] Q: Let's see if we can just get a little bit of a
 [14] time frame. Please go to Plaintiff's Exhibit 5.
 [15] It's in front of you. Go to Page 42. Do you
 [16] see that?
 [17] A: Yes, I do.
 [18] Q: Have you ever seen it before?
 [19] A: Yes.
 [20] Q: What is it?
 [21] A: It's a paper I transmitted to the superintendent
 [22] of schools.
 [23] Q: In it you were asking the superintendent to
 [24] purchase 220 copies of, Of Pandas and People?
 [25] MR. GILLEN: Objection to the

[2] A: What was the question?

[3] BY MR. HARVEY:

[4] Q: Were you asking that 220 copies of, Of Pandas
 [5] and People be purchased?

[6] A: Yes.

[7] Q: Was that request granted?

[8] A: It never got to that stage.

[9] Q: Was it the subject of discussion at a board
 [10] meeting?

[11] A: I don't believe it was. As I recall, I talked
 [12] this through with Dr. Nilsen and Mr. Baksa, and
 [13] to my recollection it was agreed that this
 [14] wasn't a good idea.

[15] Q: Why wasn't it a good idea?

[16] A: The funds that would be expended. And in
 [17] hindsight it shouldn't be taught from. I used a
 [18] bad choice of words.

[19] Q: When was that conversation with Mr. Baksa and—
 [20] Who did you say it was with, Mr. Baksa and
 [21] Mr. Nilsen?

[22] A: Yes. It would have been the 25th of July.

[23] Q: Now, why shouldn't it be taught from?

[24] A: Well, we feel better with it being used as a
 [25] supplement to a regular textbook, a regular

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[1] biology textbook. This book in and of itself
 [2] doesn't cover everything that is in a regular
 [3] biology textbook. And as a supplement, we felt
 [4] better about it, I felt better about it as
 [5] opposed to just having it, period.

[6] Q: Now, there was a meeting of the board on August
 [7] the 2nd. Do you remember that?

[8] A: I don't know dates. It could be.

[9] Q: Please take Exhibit 4 which is the compendium of
 [10] articles and turn to The York Dispatch article
 [11] of August the 3rd, 2004.

[12] MR. GILLEN: I take it I have a standing
 [13] objection as hearsay to all the newspaper
 [14] articles?

[15] MR. HARVEY: Yes.

[16] A: August the what?

[17] BY MR. HARVEY:

[18] Q: August the 3rd of 2004.

[19] A: The one from The Dispatch?

[20] Q: Yes, York Dispatch.

[21] A: Okay.

[22] Q: It says in the first paragraph it said, a
 [23] divided Dover Area school board approved a ninth
 [24] grade biology textbook last night, but the
 [25] debate over teaching creationism alongside

[1] that's a memo, right?
[2] **A:** Appears to be.
[3] **Q:** It's from whom?
[4] **A:** Mr. Baksa.
[5] **Q:** Who is Mr. Baksa?
[6] **A:** Assistant superintendent of the schools.
[7] **Q:** It's calling for a meeting of the board
[8] curriculum committee on Thursday, October 7th,
[9] correct?
[10] **A:** Yes.
[11] **Q:** You were the head of that committee?
[12] **A:** Pardon?
[13] **Q:** You were the head of that committee?
[14] **A:** Yes.
[15] **Q:** Now go to Page 36, please. There's a page there
[16] that says at the top, Board Curriculum Council
[17] Meeting, October 7, 2004, Proposed Curriculum
[18] Changes. Do you see that?
[19] **A:** Yes.
[20] **Q:** Have you ever seen this page before?
[21] **A:** I may have.
[22] **Q:** Please take a moment to look at it and tell me
[23] whether you've ever seen it before.
[24] **MR. GILLEN:** If I may, Stephen, to avoid
[25] any unnecessary waste of time, there's two

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[1] versions of that document. One has handwritten
[2] notes. One does not. Page 35 does not have the
[3] handwritten notes. Did you see either of them
[4] just for Stephen's benefit?
[5] **A:** It's possible. To tell you I remember specific
[6] paper out of all the papers we see, you know, it
[7] wouldn't be fair to me or you.
[8] **BY MR. HARVEY:**
[9] **Q:** So you don't remember seeing this?
[10] **A:** No.
[11] **Q:** Well, at the top it says, recommendations, and
[12] it says, students— It has a recommendation
[13] apparently from the administration and staff,
[14] one from Mr. Bonsell, one from Casey Brown, and
[15] one from you.
[16] **A:** Okay.
[17] **Q:** And they all differ slightly. Do you see that?
[18] **A:** Yes.
[19] **Q:** I want to know if that's your recollection of
[20] what all your various views were.
[21] **A:** That's my recollection. I just didn't know if I
[22] saw this paper before.
[23] **Q:** Okay, fine. So you wanted— Under Number 4,
[24] you wanted something that would say students
[25] will be made aware of other theories of

[1] evolution including, but not limited to,
[2] intelligent design, right?
[3] **A:** True.
[4] **Q:** Mr. Bonsell according to the handwritten comment
[5] that's been written in there wanted the same
[6] thing?
[7] **MR. GILLEN:** Objection to the surmise as to
[8] what that handwritten comment says.
[9] **MR. HARVEY:** Fair enough.
[10] **BY MR. HARVEY:**
[11] **Q:** Did Mr. Bonsell want the same thing as you?
[12] **A:** I don't know.
[13] **Q:** Well, did you attend curriculum meetings with
[14] Mr. Bonsell?
[15] **A:** Yes.
[16] **Q:** How many did you attend?
[17] **A:** Several.
[18] **Q:** Tell me when those meetings were to the best of
[19] your recollection.
[20] **A:** I couldn't come close.
[21] **Q:** Were the faculty and staff represented at those
[22] meetings?
[23] **A:** Yes.
[24] **Q:** Were the faculty and staff represented at all of
[25] those meetings?

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[1] **A:** No.
[2] **Q:** Do you know how many meetings there were? Was
[3] it two, three, or four or more?
[4] **A:** At least four. The last one— Well, there was
[5] at least four.
[6] **Q:** Was it fair to say that the staff didn't want a
[7] reference to intelligent design?
[8] **A:** What staff?
[9] **Q:** The faculty I mean.
[10] **A:** That's true.
[11] **Q:** And that you did want a reference to intelligent
[12] design?
[13] **A:** That's true.
[14] **Q:** Do you remember what Ms. Brown's view was?
[15] **A:** I think she was opposed to it.
[16] **Q:** What about Mr. Bonsell, did he want a reference
[17] to intelligent design or not?
[18] **A:** He did— There was a point where he wasn't
[19] sure, and there was a point where he did. I'm
[20] not sure where we are here.
[21] **Q:** Now, so at least at this point as of October 7th
[22] you were the one who wanted intelligent design
[23] included in the revised curriculum?
[24] **A:** I was one of the people that did. I wasn't the
[25] only one.

[1] Darwin, that would help them to not on the

[2] scientific education. We stayed within the
[3] guidelines of the PSPA. That was our intent.

[4] **Q:** I'm still not sure I understand. Why is it a
[5] gray area in your mind? Why was it a gray area?

[6] **A:** Well, I didn't— The teachers weren't
[7] comfortable teaching it, and I didn't want to
[8] force it on them if they weren't comfortable
[9] teaching it.

[10] **Q:** You said earlier in this deposition that you
[11] wanted the teachers to teach any theories they
[12] thought plausible.

[13] **MR. GILLEN:** Objection to the
[14] characterization of his testimony. I don't
[15] believe he said that.

[16] **MR. WALCZAK:** It's a quote.

[17] **A:** What I said was scientific theories they thought
[18] were plausible.

[19] **BY MR. HARVEY:**

[20] **Q:** So teachers could teach any scientific theory
[21] they thought plausible?

[22] **A:** With the—

[23] **Q:** You can answer the question.

[24] **MR. GILLEN:** Objection, calls for
[25] speculation. But go ahead, answer.

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[1] **A:** With limitations and by approval of the board.

[2] **BY MR. HARVEY:**

[3] **Q:** Why did you want them to teach any theories that
[4] they thought plausible?

[5] **MR. GILLEN:** Objection to the
[6] characterization of his testimony.

[7] **A:** I didn't get your question. I'm sorry.

[8] **BY MR. HARVEY:**

[9] **Q:** Why did you want the teachers to be able to
[10] teach any theories they thought plausible?

[11] **MR. GILLEN:** Same objection.

[12] **A:** In an effort to round out the scientific
[13] education of the students in the class.

[14] **BY MR. HARVEY:**

[15] **Q:** Is it a concern of you that the mainstream
[16] scientific community doesn't accept intelligent
[17] design as scientific teaching at all?

[18] **MR. GILLEN:** Objection, foundation.

[19] **A:** I don't know that that's true, so it's not a
[20] concern for me.

[21] **BY MR. HARVEY:**

[22] **Q:** I mean, you don't recognize that it's true that
[23] the scientific community doesn't — the
[24] mainstream scientific community at the very
[25] least does not accept intelligent design as

[2] **MR. GILLEN:** Same objection.

[3] **A:** What constitutes mainstream?

[4] **BY MR. HARVEY:**

[5] **Q:** I'm just asking you if you have an understanding
[6] on that subject.

[7] **A:** I know there are a lot of scientists that oppose
[8] some parts of Darwin's theory of evolution, and
[9] I know there are scientists who support aspects
[10] of intelligent design.

[11] **Q:** If the teachers didn't want to teach it, why are
[12] you making them mention it?

[13] **A:** Again, as part of an effort to round out the
[14] scientific education of the students.

[15] **Q:** I know that's true, but you're not a
[16] professional science educator, correct?

[17] **A:** That's correct.

[18] **Q:** You don't know anything really about science.
[19] Isn't that correct?

[20] **A:** I wouldn't say that.

[21] **Q:** Well, you know very little about science?

[22] **A:** I know water is H O.

[23] **Q:** You don't have any background in science beyond
[24] what's—

[25] **A:** I'm not a professional.

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[1] **Q:** Are you a very knowledgeable lay person?

[2] **A:** With regards to what?

[3] **Q:** Science.

[4] **A:** Depends on what very knowledgeable means.

[5] **Q:** Do you subscribe to any scientific publications?

[6] **A:** No.

[7] **Q:** Have you ever?

[8] **A:** No.

[9] **Q:** Do you follow science developments?

[10] **A:** Yes.

[11] **Q:** Where?

[12] **A:** Discovery channel, things like that on TV.

[13] **Q:** Other than that, do you read about it in any
[14] newspapers?

[15] **A:** Yeah.

[16] **Q:** Which ones, York Daily Record?

[17] **A:** York Dispatch. We only have two.

[18] **Q:** Well, you don't read those regularly, correct?
[19] I mean, you already told me that.

[20] **A:** I don't read the letters to the editor, and I
[21] don't pay attention to what they say about this
[22] issue.

[23] **Q:** Well, you told me you read the obituaries and
[24] the sports page very clearly earlier, correct?

[25] **A:** Yeah. But I didn't say that was all I read.

[1] Q: In any event, you've got teachers that are
 [2] professional science educators, and you pay them
 [3] money to teach the students, correct?
 [4] A: That's true.
 [5] Q: Why did you disregard their advice on this?
 [6] MR. GILLEN: Objection, foundation.
 [7] A: I won't say we disregarded it. They didn't want
 [8] to teach it, and they don't have to.

[9] BY MR. HARVEY:

[10] Q: Well, they didn't want it mentioned. Isn't that
 [11] correct?
 [12] A: There were some teachers that indicated that
 [13] they weren't comfortable with mentioning that.
 [14] Q: So why did you overrule them, these professional
 [15] science educators?
 [16] A: It's our job as a school board to set the
 [17] curriculum. I won't say we overruled them
 [18] because their concern was that because
 [19] intelligent design was in the curriculum that we
 [20] were forcing them to teach it. We told them
 [21] multiple times no.
 [22] Q: You were just forcing them to mention it?
 [23] A: To acknowledge that that scientific theory does
 [24] exist.
 [25] Q: Right. But they were against that, correct?

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[1] A: Yes.
 [2] Q: Why did you force them to mention it when they
 [3] didn't want to as professional science
 [4] educators?
 [5] A: As school board— As a school board, we thought
 [6] it was in the best interest of the students to
 [7] do that.
 [8] Q: That's I mean— I mean, I would hope that would
 [9] be true.
 [10] A: It is true.
 [11] Q: But why did you think it was in the best
 [12] interest of the students to overrule the
 [13] professional science educators?
 [14] A: I think the science educators were operating out
 [15] of fear. And, again, we thought it would be in
 [16] the best interest of the students and a way to
 [17] step towards giving them a fuller scientific
 [18] education to mention this theory and other
 [19] theories.
 [20] Q: Why do you think the school teachers were
 [21] operating out of fear?
 [22] A: I guess they're afraid of the ACLU. I don't
 [23] know. You have to ask them that.
 [24] Q: Did they ever tell you they were afraid?
 [25] A: They said they were afraid of being sued.

[1] Q: What did they say they were afraid of being sued
 [2] about?
 [3] A: Intelligent design. They were afraid it would
 [4] be considered something else.
 [5] Q: But that was all later when they said that they
 [6] were afraid of being sued. Initially they were
 [7] just against teaching it or mentioning it.
 [8] Isn't that correct?
 [9] A: That's not correct. They always had a
 [10] background of being afraid they'd be sued.
 [11] Q: Now, was the board meeting on October the 18th
 [12] taped?
 [13] A: I don't know. As I recall, our normal secretary
 [14] was out, and someone else was operating the
 [15] equipment, and I think there was something —
 [16] something happened with the taping process.
 [17] That's my recollection.
 [18] Q: Do you remember what happened at the meeting
 [19] October 18th?
 [20] A: With regards to?
 [21] Q: Intelligent design and the board's resolution.
 [22] A: Did we establish that we passed it then?
 [23] Q: Yes.
 [24] A: Yeah.
 [25] Q: Do you remember the discussion that took place?

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[1] A: As I recall, yes.
 [2] Q: Do you remember that approximately 11 people
 [3] from the public stood up and spoke about it?
 [4] A: I don't know how many people.
 [5] Q: Do you remember that 10 of them spoke against
 [6] it?
 [7] A: No, I don't remember that.
 [8] Q: Do you remember anyone speaking for it?
 [9] A: Yes.
 [10] Q: Who was that?
 [11] A: You know, they come to the podium. They give a
 [12] name. And I know that the people normally that
 [13] come and speak against it are either relatives
 [14] or friends of teachers.
 [15] Q: Why would relatives and friends of teachers
 [16] speak against it?
 [17] A: I don't know.
 [18] MR. GILLEN: Objection, foundation.
 [19] A: Don't know.
 [20] BY MR. HARVEY:
 [21] Q: Angie Yingling voted for the resolution on
 [22] October 18th, correct?
 [23] A: Yes.
 [24] Q: Did you know that she later stated that she felt
 [25] pressured to do that because people called her

[1] therefore, could not be transcribed.

[2] But my understanding is to the extent the
[3] district has the tape you've got both the tape
[4] and this, a transcript, that was made and came
[5] to light yesterday in my discussions with the
[6] superintendent.

[7] **MR. HARVEY:** The transcript that I listened
[8] to had Bertha Spahr on it or what I understood
[9] to be Bertha Spahr, and I don't see anything in
[10] here from Bertha Spahr.

[11] **MR. GILLEN:** You know, I don't know. I
[12] mean, I just— I can't— You know, obviously I
[13] can't vouch for its authenticity or
[14] completeness. I know it's a transcript.

[15] **MR. HARVEY:** Well, then I thought that it
[16] had that. Let's put that aside for just a
[17] second. I'll read it more closely in a break,
[18] and we'll get back to that so we don't waste any
[19] time here.

[20] **BY MR. HARVEY:**

[21] **Q:** Are you aware that the Dover — that The
[22] Discovery Institute has said that it does not
[23] support what the—

[24] (Interruption)

[25] **BY MR. HARVEY:**

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[1] **Q:** Were you aware whether The Discovery Institute
[2] made a public statement that the — that they
[3] don't endorse or support what the Dover School
[4] District has done?

[5] **MR. GILLEN:** Objection, relevance.

[6] **A:** I haven't seen it. I've heard it.

[7] **BY MR. HARVEY:**

[8] **Q:** Now, if you'll turn to the article of the Daily
[9] Record on the 20th on the third page of that.

[10] **A:** Third page. I only have two pages.

[11] **Q:** The one on October 20th.

[12] **A:** Or did I turn two at once?

[13] **Q:** There are actually two on October 20th. The
[14] title is Dover Curriculum Move Likely a First.

[15] **A:** Okay.

[16] **Q:** It says there that — I'm talking now the sixth
[17] paragraph down — it says, but the sentence
[18] about intelligent design, referring to the board
[19] resolution, was added by committee members
[20] Buckingham, Alan Bonsell, and Sheila Harkins at
[21] a meeting not attended by district staff.

[22] **A:** How far down?

[23] **Q:** Sixth paragraph down, but the sentence about
[24] intelligent design was added by.

[25] **A:** Okay, I see that.

[1] Q: Is that true?

[2] **A:** Yes.

[3] **Q:** Now, I'd like to ask you some questions about
[4] the implementation of the policy of the board
[5] resolution. It's your understanding that—

[6] What's your understanding of how this is going
[7] to be implemented, the board's resolution?

[8] **A:** It's my understanding that the teachers are
[9] going to teach Darwin's theory of evolution and
[10] through the course of that teaching or in the
[11] process of that teaching, at some point in time
[12] it will be mentioned to the students that other
[13] scientific theories exist and intelligent design
[14] is one of those theories, scientific theories.

[15] **Q:** What if students have questions about
[16] intelligent design, what are they going to be
[17] told?

[18] **MR. GILLEN:** Objection, foundation.

[19] **BY MR. HARVEY:**

[20] **Q:** Do you know?

[21] **A:** They're supposed to take those questions home to
[22] their parents or take them to a pastor at
[23] church. The books that are donated they have
[24] access to those if they want to take one home
[25] and read it, discuss it with parents, whatever.

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[1] **Q:** Has there ever been a time when you've been on
[2] the board when views of the teachers in the
[3] school district have been not followed?

[4] **A:** Say that again, I'm sorry.

[5] **Q:** Has there ever been a time when you've been on
[6] the school board where the views of the teachers
[7] were not followed on a matter?

[8] **A:** I'm not involved in some of the subcommittees.
[9] I can't answer that one way or the other. I
[10] don't know.

[11] **Q:** I'd like you to— So, in other words, not to
[12] your knowledge?

[13] **A:** I don't know, six, one half dozen of the other.

[14] **Q:** Please take a look at Deposition Exhibit 2.
[15] This is the answer to the complaint in this
[16] matter.

[17] **A:** Okay.

[18] **Q:** On Page 2 and 3 it contains a long quote from
[19] the Congressional Record of something that
[20] Senator Santorum had inserted into the record.
[21] Do you see that?

[22] **A:** Yeah.

[23] **Q:** Have you ever seen that before?

[24] **A:** Before when?

[25] **Q:** Before today.

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[1] A: I saw it last night.
[2] Q: Before last night, had you ever seen it before?
[3] A: No.
[4] Q: Did the board ever discuss it?
[5] A: Not to my knowledge.
[6] Q: Did the board ever discuss the No Child Left
[7] Behind Act?
[8] A: Oh, yeah.
[9] Q: Did it discuss it in reference to the biology
[10] curriculum?
[11] A: No.
[12] Q: Turn to Page 4. There's references to two
[13] Supreme Court cases.
[14] A: Okay.
[15] Q: Did the board ever discuss either of those
[16] references?
[17] A: Not to my knowledge.
[18] Q: Did you ever read this answer before yesterday?
[19] A: No.
[20] Q: Did you ever see any parts of it before
[21] yesterday?
[22] A: No.
[23] Q: Do you know what creationism is?
[24] A: Yes.
[25] Q: What is creationism in your view?

[1] board meetings throughout this process.
[2] Q: Which teachers?
[3] A: Bertha Spahr, Jen Miller.
[4] Q: What was said in response to that by any people
[5] on the board?
[6] A: We indicated that it is not our intent to teach
[7] creationism. It is not our intent to teach
[8] intelligent design. Our intent is to explain to
[9] the students that there are other theories,
[10] scientific theories, along with Darwin's theory
[11] of evolution.
[12] Q: Earlier today I asked you about whether the
[13] theory of evolution was inconsistent with your
[14] personal religious beliefs, and you told me it
[15] was. You don't need to confirm that. Just kind
[16] of remember—
[17] A: I think I said it wasn't.
[18] Q: No. You definitely said that the theory of
[19] evolution was inconsistent with your personal
[20] religious beliefs at least to the extent that it
[21] taught that life forms were derived from a
[22] common ancestor.
[23] A: Origins of life, yes.
[24] Q: Is the theory of intelligent design as you've
[25] phrased it, is that inconsistent with your

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[1] A: In my view?
[2] Q: Or your understanding.
[3] A: Pretty much the book of Genesis.
[4] Q: That subject has never come up at any school
[5] board meeting to your recollection?
[6] A: In what context?
[7] Q: In any context.
[8] A: Any context at all? It's been brought up by the
[9] teachers.
[10] Q: When was it brought up by the teachers?
[11] A: Different times we talked about intelligent
[12] design they kept rolling it over into
[13] creationism.
[14] Q: Was that at the board meetings?
[15] A: Yeah.
[16] Q: So the teachers mentioned creationism at board
[17] meetings?
[18] A: Yes.
[19] Q: What did they say about that?
[20] A: They were afraid that intelligent design would
[21] be perceived as a back doorway to get
[22] creationism into the curriculum.
[23] Q: Do you know when that was said, what board
[24] meetings?
[25] A: It was said on different occasions at different

[1] personal beliefs in any respect?
[2] MR. GILLEN: Objection, relevance.
[3] A: It depends on what context it's put in.
[4] BY MR. HARVEY:
[5] Q: Well, any context.
[6] A: In any context, no, it's not inconsistent.
[7] Q: Do you know who developed the press release
[8] that's attached as an exhibit to the answer in
[9] this matter?
[10] A: The administration did. Exactly who it was, I
[11] don't know, but it came from the administration.
[12] Q: Did you have any role in that?
[13] A: No.
[14] Q: Did you review any drafts of it?
[15] A: No.
[16] Q: I just need to clarify one thing from earlier.
[17] We asked— I asked you what was your purpose in
[18] supporting the board resolution of October 18th.
[19] Do you remember that?
[20] A: Yes.
[21] Q: And you told me some things about having a
[22] balance between various—
[23] A: Scientific theories.
[24] Q: Right. And I'm not sure whether I asked you
[25] specifically what was said by the other board

(1) members about the purpose of the resolution or
 (2) even if you remember hearing anything about
 (3) that.
 (4) **A:** That was consistent with what I said earlier to
 (5) you.
 (6) **Q:** Do you remember statements made by the board
 (7) members?

(8) **A:** Absolutely.

(9) **Q:** Which board members?

(10) **A:** Alan Bonsell, Sheila Harkins, Heather Geesey,
 (11) Janie Cleaver, myself, Noel Wenrich. I guess
 (12) that's it.

(13) **Q:** And you remember all of those people speaking up
 (14) about the purpose?

(15) **A:** Yes, I do.

(16) **Q:** Was that on October 18th?

(17) **A:** I won't say it was on October 18th. That
 (18) happened I would say within a period of three
 (19) meetings, two before and October the 18th.

(20) **Q:** It was all, as I understand, a balanced
 (21) presentation of these theories, correct?

(22) **MR. GILLEN:** Objection to the
 (23) characterization of the testimony.

(24) **BY MR. HARVEY:**

(25) **Q:** Well, I just want to understand.

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(1) **A:** I don't understand the question anyway.

(2) **Q:** These board members expressed a purpose that was
 (3) consistent with the purpose that you told me
 (4) that you shared which was for a balanced
 (5) presentation of—

(6) **A:** Of other scientific theories.

(7) **Q:** Right.

(8) **A:** Yes.

(9) **Q:** Did anybody mention any other purposes?

(10) **A:** No.

(11) **MR. HARVEY:** I just would like to confer
 (12) with counsel for a second.

(13) (Recess taken)

EXAMINATION

(14) **BY MR. GILLEN:**

(15) **Q:** Mr. Buckingham, earlier Mr. Harvey asked you a
 (16) question about a statement which is here on the
 (17) second page of an article from June 15, 2004
 (18) from The York Dispatch entitled, Church State
 (19) Issue Divides, Creationism Draws 100 to Dover
 (20) Meeting. And the quoted statement is, nearly
 (21) 2,000 years ago someone died on a cross for us,
 (22) shouldn't we have the courage to stand up for
 (23) him. For the sake of insuring the transcript is
 (24) clear, I want to ask you, did you make that
 (25)

(1) statement in connection with the biology
 (2) curriculum?

(3) **A:** No.

(4) **MR. HARVEY:** Objection to the form of the
 (5) question, leading, improper.

(6) **BY MR. GILLEN:**

(7) **Q:** Did you make that statement at any time?

(8) **A:** Yes.

(9) **MR. HARVEY:** Same objection.

(10) **BY MR. GILLEN:**

(11) **Q:** When you made that statement, do you have some
 (12) idea when you made the statement?

(13) **A:** Yes.

(14) **Q:** When?

(15) **A:** It was occurring during the debate about whether
 (16) or not to take under God out of the Pledge of
 (17) Allegiance.

(18) **MR. GILLEN:** I just want the—

REEXAMINATION

(19) **BY MR. HARVEY:**

(20) **Q:** What did you mean when you said it at that time?

(21) **A:** That was in response to something I believe, I'm
 (22) not sure, but I believe it was Mrs. Brown said
 (23) to me. I was attacked because of my stance on
 (24) keeping under God in the Pledge. It didn't
 (25)

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(1) refer to a specific God. I did when I made that
 (2) statement. But under God could be the God you
 (3) want it to be, you know, depending on your
 (4) faith. And that was in response to something
 (5) that was said to me. And it was directed at the
 (6) person that said it. It wasn't directed to
 (7) anybody else.

(8) **Q:** But it was said in a public board meeting?

(9) **A:** Yes.

(10) **Q:** And it was a reference to Jesus Christ?

(11) **A:** No.

(12) **Q:** Two thousand years ago a man died on a cross,
 (13) that wasn't a reference to Jesus Christ?

(14) **A:** I'm sorry, I misunderstood what you said. Yes,
 (15) that's true.

(16) **Q:** So at least on that occasion you interjected
 (17) your own personal religious views into the board
 (18) meeting. Isn't that correct?

(19) **A:** As much as I was talking to the board member
 (20) sitting beside me, yes.

(21) **MR. HARVEY:** I don't have any further
 (22) questions.

(23) **MR. GILLEN:** I just have two others.

REEXAMINATION

(24) **BY MR. GILLEN:**

(25)